

STATE OF NEW YORK

6789

2019-2020 Regular Sessions

IN ASSEMBLY

March 20, 2019

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to licensing tenant screening bureaus

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The real property law is amended by adding a new section
2 238-a to read as follows:

3 § 238-a. Tenant screening bureaus; licensing. 1. Definitions. For
4 purposes of this section the following terms shall have the following
5 meanings: (a) "File" when used in connection with information about any
6 tenant or prospective tenant means all of the information about the
7 tenant or prospective tenant that is recorded and retained by a tenant
8 screening bureau, regardless of how the information is stored.

9 (b) "Residential proceeding" means a judicial or administrative
10 proceeding that is related to residential tenancy, rent or eviction,
11 regardless of the forum in which such proceeding is initiated and
12 regardless of whether such proceeding is initiated by a landlord or a
13 tenant.

14 (c) "Tenant screening bureau" means a person that, for a fee, regular-
15 ly engages in the business of assembling or evaluating information about
16 individuals for the purpose of furnishing tenant screening reports to
17 third parties where such reports are used or are intended to be used in
18 connection with the rental of residential real property located in the
19 state. Such term shall not include a person who obtains a tenant screen-
20 ing report and provides such report or information contained in such
21 report to a subsidiary or affiliate of such person.

22 (d) "Tenant screening report" means any written, oral or other commu-
23 nication that purports to contain information about a residential
24 proceeding involving tenant or prospective tenant who is the subject of
25 the report and that is used or expected to be used in whole or in part

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 for the purpose of serving as a factor in determining a tenant's or a
2 prospective tenant's suitability for housing.

3 2. License required. No person shall act as a tenant screening bureau
4 without first having obtained a license in accordance with this section.

5 3. License term; fees. (a) A license pursuant to this section shall be
6 valid for two years unless sooner suspended or revoked.

7 (b) The fee for a license or a renewal thereof is seventy-five
8 dollars.

9 4. Application. (a) A person applying for a license or a renewal ther-
10 eof under this section shall file an application in such form and detail
11 as the secretary of state shall prescribe and shall pay the fee required
12 by this section.

13 (b) The secretary of state shall require each person applying for a
14 license under this section to provide the following information:

15 (i) the name, address, telephone number and e-mail address of the
16 applicant;

17 (ii) if the applicant is a nonresident of the state, the name,
18 address, telephone number and e-mail address of a registered agent in
19 the state upon whom process or other notification may be served or a
20 designation of the secretary of state for such purpose; and

21 (iii) any other information the secretary of state deems relevant.

22 5. Required and prohibited practices. (a) For each residential
23 proceeding that it refers to, a tenant screening report shall include
24 all of the following information:

25 (i) the names of all petitioners in the residential proceeding;

26 (ii) the names of all respondents in the residential proceeding;

27 (iii) the name and address of the forum where the residential proceed-
28 ing was filed;

29 (iv) the claims alleged in the petition;

30 (v) in the case of a holdover proceeding, the specific claim or alle-
31 gation made by the petitioner as grounds for the proceeding;

32 (vi) whether the rent for the unit that was the subject of the resi-
33 dential proceeding was regulated by law, as alleged in the petition;

34 (vii) whether the respondent filed an answer in the residential
35 proceeding and, if so, the nature of any defenses asserted in such
36 answer;

37 (viii) the outcome, if any, of the residential proceeding, such as
38 whether the proceeding was settled, discontinued, dismissed or withdrawn
39 or resulted in a possessory judgment for landlord or tenant or in a
40 money judgment for landlord or tenant;

41 (ix) if a rent claim made in the residential proceeding was reduced or
42 abated, either by agreement of the parties or by court order, the amount
43 of such reduction or abatement;

44 (x) the date when information about the residential proceeding will be
45 permanently removed from the file of the subject of such proceeding; and

46 (xi) the most current status of the residential proceeding.

47 (b) No tenant screening bureau may furnish a tenant screening report
48 containing any information about a residential proceeding if:

49 (i) such proceeding is the subject of an expungement order issued by
50 any court of competent jurisdiction;

51 (ii) such report does not contain all of the information about such
52 residential proceeding required by paragraph (a) of this subdivision; or

53 (iii) if such report contains information that the tenant screenings
54 bureau know or should know is inaccurate.

1 6. Powers and duties of the secretary of state. (a) The secretary of
2 state shall promulgate such rules as are necessary to implement and
3 enforce this section.

4 (b) The secretary of state has the power to enforce this section, to
5 investigate any violation thereof, and to investigate the business,
6 business practices and business methods of any tenant screening bureau
7 if the secretary of state determines that such investigation is
8 warranted. A tenant screening bureau that receives a request for infor-
9 mation from the secretary of state shall supply the requested informa-
10 tion promptly in a manner provided by rule.

11 (c) The secretary of state may compel the attendance of witnesses and
12 the production of documents.

13 (d) The secretary of state may seek to enjoin a violation of this
14 section and may suspend the issuance of any tenant screening report in
15 order to enforce this section.

16 7. Civil penalties. (a) A person who, after notice and a hearing, is
17 found to have furnished another with a tenant screening report that
18 violates this section is subject to a civil penalty of five hundred
19 dollars for each such tenant screening report furnished.

20 (b) A person who, after notice and a hearing, is found to have acted
21 as a tenant screening bureau without a license in violation of subdivi-
22 sion two of this section is subject to a civil penalty of not less than
23 one thousand dollars and not more than five thousand dollars.

24 (c) If a person is found to have committed repeated, multiple or
25 persistent violations of any provisions of this section, such person may
26 be responsible for all or part of the cost of the department of state's
27 investigation.

28 (d) Each penalty or cost specified in this section is in addition to
29 any other applicable penalty or cost specified in this section or in any
30 other law.

31 8. Private right of action. (a) A tenant or prospective tenant who has
32 been injured by a violation of this section, except a violation of the
33 requirement to obtain a license pursuant to subdivision two of this
34 section, may institute in such tenant's or prospective tenant's own name
35 (i) an action to enjoin such unlawful act or practice, (ii) an action to
36 recover the greater of such person's actual damages or five hundred
37 dollars or (iii) both such actions.

38 (b) In an action for damages under this subdivision, a court may award
39 punitive damages if such court finds that the defendant willfully
40 violated this section.

41 (c) In any action under this subdivision, a court shall award reason-
42 able attorney's fees and costs to a prevailing plaintiff.

43 (d) The issuance of a tenant screening report that the tenant screen-
44 ing bureau knew or should have known contained inaccurate information or
45 otherwise violated this section constitutes an injury for purposes of
46 this subdivision. This paragraph does not limit the types of other inju-
47 ries that are legally cognizable under this subdivision.

48 (e) A tenant or prospective tenant who institutes an action pursuant
49 to this section shall provide notice of such action to the secretary of
50 state. The attorney general may intervene in any such action on behalf
51 of the state.

52 (f) In any action brought by a resident, former resident or prospec-
53 tive resident of the city involving the reporting of a residential
54 proceeding, a party who is found during the course of such action to
55 have violated subchapter III of chapter 41 of title 15 of the United
56 State code or article twenty-five of the general business law shall file

1 a copy of such finding with the commissioner within sixty days of such
2 finding.

3 § 2. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law.